

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendments, claims 1-14 and 16-20 are pending in the application, with 1, 14 and 20 being the independent claims. Claims 1, 7, 14, 16, 18 and 20 are sought to be amended. Claim 15 is sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Applicants reserve the right to prosecute similar or broader claims, with respect to any cancelled or amended claims, in the future. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Rejection under 35 U.S.C. § 101***

In paragraph 2 in the Office Action, claims 1-19 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Applicants respectfully traverse. Although Applicants believe the previously pending claims were in full compliance with all sections of 35 U.S.C., in order to expedite prosecution Applicants have clarified claims 1 and 14. Based on the amendments above, Applicants respectfully request the reconsideration and withdrawal of the rejection regarding independent claims 1 and 14, and their respective dependent claims 2-13 and 16-19. As claim 15 is sought to be cancelled, the rejection of claim 15 is considered moot.

***Rejections under 35 U.S.C. § 103***

Claims 1, 2, 6-11 and 13

In paragraph 5 of the office action, claims 1, 2, 6-11 and 13 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,154,729 to Cannon (“Cannon”) in view of U.S. Patent Application Publication No. 2002/0099649 to Lee (“Lee”). Applicants respectfully traverse.

Claim 1, as amended, recites features that distinguish over the applied references. For example, claim 1, as amended, recites, in part, “wherein the assessing of the fee promotes cost avoidance in resolving the disputed credit transactions.” As the Examiner states in paragraph 14 of the Office Action, the “Examiner also observes that the art of record, appears to be silent as to cost avoidance related to dispute resolution.” Therefore, Cannon does not teach at least the above recited features of claim 1.

Paragraph 5 of the Office Action states that Cannon does not explicitly teach “assessing a chargeback fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio,” and relies on Lee to disclose such a feature. Paragraph 5 of the Office Action states, to which Applicants do not acquiesce, Lee discloses assessing a chargeback fee. However, Lee is not used to teach or suggest, nor does Lee teach or suggest, at least the above noted distinguishing features of claim 1. Lee does not teach “assessing a chargeback fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio.” Rather Lee teaches where “issuing banks can levy fines on merchants having too many chargebacks.” (*See* Lee, paragraph [0019]). Lee does not disclose or suggest a per-transaction fee. Therefore, Lee does not cure the deficiencies of Cannon,

and the references cannot be used to establish a prima facie case of obviousness. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection as per claim 1.

In addition, at least based on their respective dependencies to claim 1, claims 2, 6-11 and 13 are distinguishable over the applied references for the reasons discussed above, in addition to their own patentable features. Therefore, for at least these reasons, Applicants respectfully request that the rejection of these claims under 35 U.S.C. § 103 be removed, and these claims be passed to allowance.

Claims 3-5, 12 and 14-20

In paragraph 6 of the Office Action, claims 3-5, 12 and 14-20 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cannon in view of Lee, and in further view of U.S. Patent Application Publication No. 2004/0030644 to Sharper ("Sharper"). Applicants respectfully traverse. In addition, as claim 15 is sought to be cancelled, the rejection of claim 15 is considered moot.

In reference to claims 3-5 and 12, the Examiner states that Sharper teaches, to which Applicants do not acquiesce, "the threshold ratio comprising three percent," "establishing the threshold ratio based on an industry category including the merchant," "wherein the industry category comprising comprises a standard industrial classification code," and "wherein the threshold number of time periods is based on an industry category including the merchant." However, the Examiner is not using Sharper to teach or suggest, nor does Sharper teach or suggest, at least the above-recited distinguishing features of claim 1. Therefore, Sharper does not cure the deficiencies of Cannon and Lee, alone or in combination, and therefore the references cannot be used to establish a

prima facie case of obviousness for claims 3-5 and 12. Claims 3-5 and 12 depend from claim 1, and therefore are also distinguishable over the applied references for at least the reasons stated above with respect to claim 1, as well as for their additional distinguishing features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections as per claims 3-5 and 12.

Claims 14 and 20, as amended, recite features that distinguish over the applied references. For example, claims 14 and 20 recite, in part, “wherein the assessing of the fee promotes cost avoidance in resolving the disputed credit transactions.” As previously discussed, the Examiner states in paragraph 14 of the Office Action, “the art of record, appears to be silent as to cost avoidance related to dispute resolution.” Therefore, Cannon does not teach at least the above recited features of claims 14 and 20.

On page 13 and 18 of the Office Action, the Examiner states that Sharper teaches in regards to claims 14 and 20, to which Applicants do not acquiesce, “that chargeback characteristics vary from industry to industry.” However, the Examiner is not using Sharper or Lee to teach or suggest, nor do Sharper or Lee teach or suggest, at least the above-recited distinguishing features of claims 14 and 20. Therefore, neither Sharper nor Lee cure the deficiencies of Cannon, and the Sharper and Lee references cannot be used to establish a prima facie case of obviousness. Claims 16-19 depend from claim 14, and therefore are also distinguishable over the applied references for at least the reasons stated above, as well as for their additional distinguishing features. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejections as per claims 14 and 16-20.

***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

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